

SOUTH CAROLINA PUBLIC SERVICE COMMISSION

HEARING OFFICER DIRECTIVE

DOCKET NO. [2017-370-E, 2017-207-E, and 2017-305-E](#) ORDER NO. 2018-79-H

JULY 3, 2018

David Butler
Hearing Officer

DOCKET DESCRIPTION:

Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans

Friends of the Earth and Sierra Club, Complainant/Petitioner v. South Carolina Electric & Gas Company, Defendant/Respondent

Request of the Office of Regulatory Staff for Rate Relief to South Carolina Electric & Gas Company's Rates Pursuant to S.C. Code Ann. § 58-27-920

MATTER UNDER CONSIDERATION:

Request and Petition for Reconsideration in Part of Order No. 2017-73-H

HEARING EXAMINER ACTION:

Joint Applicants South Carolina Electric & Gas Company (“SCE&G”) and Dominion Energy, Inc. (“Dominion Energy”) (together with SCE&G, the “Joint Applicants”) petition for reconsideration of a portion of Order No. 2018-73-H entered in the above-noted Dockets. The Joint Applicants seek reconsideration of the ruling requiring SCE&G to produce responses and documents to Office of Regulatory Staff (“ORS”) Request 5-25, which requests materials from various agency investigations arising out of the V.C. Summer project. The investigating agencies include the United States Department of Justice, the Federal Bureau of Investigation, the Securities and Exchange Commission, the South Carolina Law Enforcement Division, the Office of the Attorney General for the State of South

Carolina, and the South Carolina Department of Labor, Licensing and Regulation, and the investigations at issue took place during 2017 and 2018.

As procedural background, ORS originally filed a motion to compel, to which SCE&G responded. ORS replied to that response. The original ruling in Order No. 2018-73-H granted the Office of Regulatory Staff's Motion compelling a response from SCE&G, but did so on a limited basis based on the ORS commitments as to scope that were included in their response.

The Joint Applicants characterize the ruling on this issue as "an impermissible expansion of the scope of permissible discovery pursuant to both the Commission's Regulations and Rule 26 of the South Carolina Rules of Civil Procedure." These parties state that discovery is limited to "material relevant to the subject matter involved in the pending proceeding..." The Joint Applicants discuss the proposition that the criminal and regulatory investigations contained in the materials are sweeping in scope and relate to matters that have a limited connection the Project, if any.

ORS has previously responded to these allegations by stating that Request 5-25 only seeks information from investigations arising out of the V.C. Summer Project, and that ORS is not seeking information on other governmental investigations that do not arise out of the Project. ORS states that governmental investigations regarding issues at the Project are likely sources of information regarding the prudence of SCE&G's decisions and thus relevant and reasonably calculated to lead to the discovery of admissible evidence. As I did in Order No. 2018-73-H, I agree with ORS that production requests limited to the seeking of material from investigations arising out of the V.C. Summer Project is relevant and reasonably calculated to lead to the discovery of admissible evidence. Accordingly, the Petition for Reconsideration is denied, as is the requested Stay. SCE&G shall produce the requested responses and documents on or before July 6, 2018 as ordered in Order No. 2017-73-H.